

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

KEVIN JAMES CLINE,

Petitioner,

v.

**CIVIL ACTION NO. 2:10-CV-117
CRIMINAL ACTION NO. 2:09-CR-07-1
(BAILEY)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation ("R&R") of United States Magistrate Judge John S. Kaull [Civ. Doc. 8; Crim. Doc. 102], filed November 14, 2011. In that filing, the magistrate judge recommends that this Court deny the petitioner's 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct Sentence [Civ. Doc. 1; Crim. Doc. 91], filed October 22, 2011.

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v.***


Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R&R were due by January 4, 2012, pursuant to 28 U.S.C. § 636(b)(1).¹ To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review, it is the opinion of this Court that the magistrate judge's Report and Recommendation [**Civ. Doc. 8; Crim. Doc. 102**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. As such, this Court hereby **DENIES** and **DISMISSES WITH PREJUDICE** the petitioner's 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct Sentence [**Civ. Doc. 1; Crim. Doc. 91**]. Accordingly, this Court hereby **DIRECTS** the Clerk to enter judgment in favor of the respondent and to strike this matter from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: January 9, 2012.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE

¹It appearing to the Court that the petitioner is housed at FCI Ashland instead of FCI Morgantown, this Court directed the Clerk to mail a copy of the R&R to the petitioner at that facility [Crim. Doc. 105]. The docket reflects that service was accepted on December 18, 2011 [Crim. Doc. 106].